

Library of Congress

§ 703.15

(4) Copies of records, including those certified as true copies, that are furnished for official use to any officer or employee of the federal government.

(5) Copies of pertinent records furnished to a party having a direct and immediate interest in a matter pending before the Library, when furnishing such copies is necessary or desirable to the performance of a Library function.

(b) When the costs for services are \$10 or more, the Chief, OSS, shall assess and collect the fees and charges set out in appendix A to this part for the direct costs of search and reproduction of records available to the public.

(c) The Chief, OSS, is authorized to waive fees and charges, in whole or in part, where it is determined that the public interest is best served to do so, because waiver is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Persons seeking a waiver or reduction of fees may be required to submit a written statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations made pursuant to the authority set out herein are solely within the discretion of the Chief, OSS.

(d) Fees and charges for services identified in the appendix to this part shall be paid in full by the requester before the records are delivered. Payment shall be made in U.S. funds by personal check, money order, or bank draft made payable to the Library of Congress. The Chief, OSS, shall remit all fees collected to the Director, Financial Services, who shall cause the same to be credited to appropriate accounts or deposited with the U.S. Treasury as miscellaneous receipts.

(e) The Chief, OSS, shall notify a requester and may require an advance deposit where the anticipated fees will exceed \$50.

APPENDIX A TO SUBPART A OF PART 703—FEES AND CHARGES FOR SERVICES PROVIDED TO REQUESTERS OF RECORDS

(a) Searches.

(1) There is no charge for searches of less than one hour.

(2) Fees charged for searches of one hour or more are based on prevailing rates. Currently, those charges are:

(i) Personnel searches (clerical): \$15 per hour.

(ii) Personnel searches (professional): \$25 per hour.

(iii) Reproduction costs: \$.50 per page.

(iv) Shipping and mailing fees: variable.

(3) In situations involving the use of computers to locate and extract the requested information, charges will be based on the direct cost to the Library, including labor, material, and computer time.

(b) *Duplication of Records.* Fees charged for the duplication of records shall be according to the prevailing rates established by the Library's Photoduplication Service, or in the case of machine media duplication, by the Resources Management Staff, Information Technology Services.

(c) *Certifications.* The fee charges for certification of a record as authentic or a true copy shall be \$10.00 for each certificate.

(d) *Other Charges.* When no specific fee has been established for a service required to meet the request for records, the Chief, OSS, shall establish an appropriate fee based on direct costs in accordance with the Office of Management and Budget Circular No. A-25.

Subpart B—Testimony by Employees and Production of Documents in Certain Legal Proceedings Where the Library Is Not a Party

§ 703.15 Purpose and scope of this subpart.

This subpart sets forth the policy and procedures of the Library of Congress regarding, first, the testimony, as witnesses in legal proceedings where the Library is not a party, of employees and former employees concerning information acquired in the course of performing official duties or because of the employee's official relationship with the Library of Congress, and second, the production or disclosure of information contained in Library of Congress documents for use in legal proceedings where the Library is not a party, pursuant to a request, order, or

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subpoena (collectively referred to in this subpart as a “demand”).

(a) This subpart applies to:

(1) State court proceedings (including grand jury proceedings);

(2) Federal court proceedings; and

(3) State and local legislative and administrative proceedings.

(b) This subpart does not apply to:

(1) Matters that are not related to the Library of Congress but relate solely to an employee’s personal dealings;

(2) Congressional demands for testimony or documents;

(3) Any demand relating to activity within the scope of Title 17 of the United States Code (the Copyright Act and related laws). These are governed by Copyright Office regulations, which provide for different procedures and for service on the General Counsel of the Copyright Office. *See* 37 CFR 201.1, sec. 203, sec. 204, and sec. 205.

(c) The purpose of this subpart is to ensure that employees’ official time is used only for official purposes, to maintain the impartiality of the Library of Congress among private litigants, to ensure that public funds are not used for private purposes, to ensure the protection of Congress’ interests, and to establish centralized procedures for deciding whether or not to approve testimony or the production of documents.

§ 703.16 Policy on presentation of testimony and production of documents.

No Library of Congress employee may provide testimony or produce documents in any proceeding to which this part applies concerning information acquired in the course of performing official duties or because of the employee’s official relationship with the Library of Congress, unless authorized by the General Counsel or his/her designee, or the Director of the Congressional Research Service (CRS) with respect to records and testimony relating to CRS’s work for Congress, or the Law Librarian for records and testimony relating to the Law Library’s work for Congress or materials prepared for other federal agencies covered by evidentiary privileges. The aforementioned officials (hereinafter “deciding officials”) will consider and act upon demands under this part with due re-

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gard for the interests of Congress, where appropriate, statutory requirements, the Library’s interests, and the public interest, taking into account factors such as applicable privileges and immunities, including the deliberative process privilege and the speech or debate clause, the need to conserve the time of employees for conducting official business, the need to avoid spending the time and money of the United States for private purposes, the need to maintain impartiality among private litigants in cases where a substantial government interest is not involved, the established legal standards for determining whether or not justification exists for the disclosure of confidential information and records, and any other purpose that the deciding official deems to be in the interest of Congress or the Library of Congress.

§ 703.17 Procedures when testimony and/or documents are demanded.

A demand for testimony and/or documents by a Library employee must be in writing, must state the nature of the requested testimony and/or specify documents, and must meet the requirements of § 703.15. A demand must also show that the desired testimony or document is not reasonably available from any other source and must show that no document could be provided and used in lieu of testimony. When an employee of the Library receives such a request the employee will immediately forward it, with the recommendation of the employee’s supervisors, to the appropriate deciding official under § 703.22 of this part. The deciding official, in consultation with the appropriate offices of the Library or congressional offices, will determine whether or not compliance with the request would be appropriate and will respond as soon as practicable.

§ 703.18 Procedures when an employee’s appearance is demanded or documents are demanded.

(a) If the deciding official has not acted by the return date on a subpoena, the employee must appear at the stated time and place (unless advised by the deciding official that the subpoena was not validly issued or served or that